

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	21cv1884 (DLC)
BCBSM, INC., d/b/a BLUE CROSS and BLUE	:	
SHIELD OF MINNESOTA, on behalf of	:	<u>ORDER</u>
itself and those similarly situated,	:	
	:	
Plaintiff,	:	
	:	
-v-	:	
	:	
VYERA PHARMACEUTICALS, LLC, PHOENIXUS	:	
AG, MARTIN SHKRELI, and KEVIN MULLEADY,	:	
	:	
Defendants.	:	
	:	
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DENISE COTE, District Judge:

On August 3, 2021, non-party witnesses Axiom Healthcare Pharmacy and Kroger Specialty Pharmacy, Inc. (collectively, "Kroger") moved to adjourn the conference scheduled for August 4, 2021 at 4:00 p.m. It is hereby

ORDERED that the motion to adjourn the August 4 conference is denied.


IT IS FURTHER ORDERED that the burden is on Kroger to determine what readily available data it possesses that is responsive to the plaintiff's subpoena. It is also Kroger's burden to meet and confer with the plaintiff in advance of the conference.

IT IS FURTHER ORDERED that the plaintiff has no obligation to narrow the scope of its request until that meet and confer

process is exhausted.

IT IS FURTHER ORDERED that in the event Kroger takes the position that it did not purchase or sell Daraprim or a pharmaceutical product containing Pyrimethamine during the time period at issue, Kroger shall obtain a written statement to that effect from a person employed at Kroger with knowledge of its transactional records and promptly provide that statement to the plaintiff's counsel.

Dated: New York, New York
August 3, 2021



DENISE COTE
United States District Judge